

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MATTHEW W BUTLER, et al.,  
  
Plaintiffs,

v.

WELLS FARGO HOME MORTGAGE  
INC, et al.,  
  
Defendants.

CASE NO. C12-5725 BHS

ORDER GRANTING  
DEFENDANTS' UNOPPOSED  
MOTION TO STRIKE AMENDED  
COMPLAINT

This matter comes before the Court on Defendants Wells Fargo Home Mortgage, Inc., and Freddie Home Loan Mortgage Corporation ("Defendants") motion to strike Plaintiff Matthew Butler's ("Butler") amended complaint (Dkt. 15). The Court has considered the pleadings filed in support of the motion and the remainder of the file and hereby grants the motion for the reasons stated herein.

On August 15, 2012, William Butler and Leslie Deutsch ("Plaintiffs") filed a complaint against Defendants. Dkt. 1. On October 25, 2012, Defendants filed a motion to dismiss Plaintiffs' complaint for failure to state a claim. Dkt. 9. Plaintiffs did not respond to that motion. However, on December 11, 2012, Butler filed an amended complaint. Dkt. 14. On December 12, 2012, Defendants filed a motion to strike the amended complaint on the basis that Butler failed to comply with time requirements for

1 amendment under Fed. R. Civ. P. 15(A)(1), and he failed to move the Court for leave to  
2 amend. Dkt. 15. Butler did not reply.

3 Under Federal Rule of Civil Procedure 15(a)(1), a plaintiff may amend his or her  
4 complaint once as a matter of course within

- 5 (A) 21 days after serving it, or  
6 (B) if the pleading is one to which a responsive pleading is required,  
7 21 days after service of a responsive pleading or 21 days after  
8 service of a motion under Rule 12(b), (e), or (f), whichever is  
9 earlier.

8 Here, Defendants filed and served their motion to dismiss on October 25, 2012. Dkt. 9.

9 Because more than 21 days elapsed between Defendants' motion to dismiss and the  
10 Butler's December 11, 2012 amended complaint, Butler must move the Court for leave to  
11 amend the complaint.

12 Therefore, it is hereby **ORDERED** that Defendants' motion to strike Plaintiffs'  
13 amended complaint (Dkt. 15) is **GRANTED**.

14 Dated this 14<sup>th</sup> day of January, 2013.

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BENJAMIN H. SETTLE  
United States District Judge